



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

FILED

2014 MAY 23 PM 3:30

US EPA - REGION IX
HEARING CLERK

IN THE MATTER OF:

Shaka's Pahoa LLC, Vernon Lindsay, and
Noenoe Lindsay,

Pahoa, Hawaii

Respondents

Proceedings under Section 1423(c) of the
Safe Drinking Water Act, 42 U.S.C. § 300h-2(c)

DOCKET NO.: UIC-09-2012-0003

Dated: May 23, 2014

PREHEARING ORDER

This proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.1-22.52 ("Rules of Practice"). The parties are advised to familiarize themselves with the applicable statute(s) and the Rules of Practice.

On May 13, 2014, I granted Complainant's Motion for Accelerated Decision on Liability, as amended. A hearing to determine the appropriate penalty in this matter will be scheduled following the prehearing requirements outlined below.

Prehearing Exchange

(1) Pursuant to Section 22.19(a) of the Consolidated Rules of Practice, each party shall file with the Regional Hearing Clerk an original and one copy, and shall serve on the opposing parties the following Prehearing Information Exchange:

- (A) The names of all witnesses the party intends to call at the hearing. For each named witness, please provide a brief narrative summary of the expected testimony of that

witness. Also, for each named witness, please specify whether it is a fact witness or an expert witness and where applicable, provide a curriculum vitae or resume for each expert witness. If the party does not intend to call any witnesses, please provide a statement that no witnesses will be called;

- (B) Copies of all documents and exhibits intended to be introduced into evidence, identified as "Complainant's" or "Respondents'" exhibits, as appropriate, and numbered with Arabic numerals (*e.g.*, CX 1 or RX 1);
 - (C) An estimate of the time each party will need to present its direct case.
 - (D) Please state whether translation services are necessary for the testimony of any anticipated witness(es), and if so, state the language to be translated.
 - (E) Please also state whether reasonable accommodations are necessary and state what may need to be provided.
- (2) Complainant shall provide a statement explaining how the proposed administrative civil penalty set forth in its Administrative Complaint, filed on September 20, 2012 was calculated in accordance with the criteria set forth in the Safe Drinking Water Act.
- (3) Respondents shall provide information on any economic benefit resulting from their failure to close the two large capacity cesspools at issue, including any gross revenues, delayed or avoided costs. In addition, Respondents should provide a statement explaining why the proposed penalty should be reduced or eliminated, if they so contend.

The Prehearing Information Exchanges shall be filed with the Regional Hearing Clerk on or before the close of business June 30, 2014.

Prehearing Conference

I will hold a telephonic Prehearing Conference on July 22, 2014 at 2:00 p.m. PDT. Each party should include the telephone number where each can be reached for the prehearing conference with their Prehearing Information Exchange submissions.

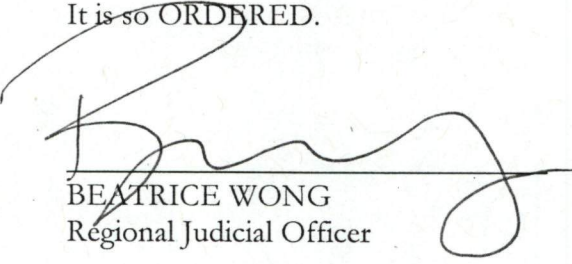
During the Prehearing Conference, the parties should be prepared to discuss:

- (1) Settlement of the case;
- (2) Simplification of the issue and stipulations of facts not in dispute;
- (3) The exchange of exhibits, documents, prepared testimony, and admissions or stipulations of fact which will avoid unnecessary proof;
- (4) The limitation of the number of witnesses;
- (5) The time and place of the hearing; and
- (6) Any other matters which may expedite the disposition of the proceeding on penalty.

Hearing Date and Location

We will set the hearing date and location during the telephonic Prehearing Conference.

It is so ORDERED.


BEATRICE WONG
Regional Judicial Officer

5/23/14

CERTIFICATE OF SERVICE

I hereby certify that the foregoing PREHEARING ORDER was sent as follows:

By Inter-Office Mail

Richard Campbell
U.S. Environmental Protection Agency
Office of Regional Counsel
75 Hawthorne Street
San Francisco, CA 94105

By Facsimile and US Mail

Ramon J. Ferrer
135 S. Wakea Avenue, Suite 204
Kahului, HI 96732
Fax: (808) 877-3682

May 23, 2014
Date

Steven Ramsey
Interim Regional Hearing Clerk